



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR

Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the *Act*), and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 24, 2018, the landlord placed the Notice of Direct Request Proceeding in the tenant's mailbox. The landlord had a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm this service.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by landlords who are not the applicants on March 23, 2016, indicating a monthly rent of \$630.00, due on the first day of each month for a tenancy commencing on April 1, 2016;
- A copy of a letter showing the transfer of management responsibilities from the former landlords, who are named on the residential tenancy agreement, to the current landlord who is applying for dispute resolution;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent dated January 4, 2018 for \$1,260.00 in unpaid rent (the 10 Day Notice). The 10 Day Notice provides that the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the stated effective vacancy date of January 17, 2018;

- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was placed in the tenant's mailbox or mail slot at 8:30 pm on January 4, 2018; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

Analysis

In this type of matter, the landlord must prove they served the tenant the Notice of Direct Request proceeding with all the required inclusions as indicated on the Notice as per subsections 89 (1) and (2) of the *Act* which permit service by, leaving a copy with the person, sending a copy by registered mail to the address at which the person resides, by leaving a copy with an adult who apparently resides with the tenant or by attaching a copy to the door or other conspicuous place at the address at which the tenant resides.

I find that the landlord has served the Notice of Direct Request Proceeding by leaving it in the mailbox of the rental unit, which is not a method of service that is in accordance with section 89 of the *Act*. Since I find that the landlord has not served the tenant with notice of this application in accordance with section 89 of the *Act*, the landlord's application for an Order of Possession is dismissed, with leave to reapply.

Conclusion

I dismiss the landlord's application for an Order of Possession and a Monetary Order for unpaid rent, with leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: January 29, 2018

Residential Tenancy Branch